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NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: PLANETPRO, INC.

No. 07-15961

SEETARAMA SARMA,

D.C. No. CV-03-01967-LKK

Appellant,

MEMORANDUM *

v.

PLANETPRO, INC.,

Appellee,

and

OFFICE OF THE UNITED STATES
TRUSTEE,

Trustee.

Appeal from the United States District Court
for the Eastern District of California
Lawrence K. Karlton, Senior Judge, Presiding

Submitted November 13, 2007 **

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

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Before: PREGERSON, TALLMAN and CLIFTON, Circuit Judges.

This is an appeal from the district court's denial of a motion under Federal Rules of Civil Procedure 59 and 60 to set aside a judgment affirming a bankruptcy court judgment dismissing appellant Sarma's lawsuit.¹

Appellant contends the bankruptcy court had no authority to enter a final order dismissing the case. Appellant's consent to such authority was properly implied from his affirmative actions, including his choice to remove the case to bankruptcy court. *See In re Mann*, 907 F.2d 923, 926 (9th Cir. 1990). Appellant's failure to contest the bankruptcy court's authority on prior appeal in this court means that argument is waived for purposes of this appeal. *See Securities Investor Protection Corp. v. Vigman*, 74 F.3d 932, 937 (9th Cir. 1996).

Further, neither the district court nor the bankruptcy court erred by failing to abstain from considering the state law claims after appellant removed the case to bankruptcy court, and did not move for abstention following removal. *See* 28 U.S.C. § 1334(c)(2); *Security Farms v. Int'l Broth. of Teamsters (In re Gen.*

¹ The panel that considered prior appeals nos. 05-15311 and 05-15384 declines to hear this appeal. Appellee's motion to assign this appeal to the prior panel is therefore denied.

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Teamsters, Warehousemen & Helpers Union Local 890), 124 F.3d 999, 1009-10
(9th Cir. 1997).

Accordingly, we grant appellee's motion for summary affirmance.

All other pending motions are denied as moot.

AFFIRMED.